

Message Text

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PAGE 01 TOKYO 03573 060639Z
ACTION HEW-06

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FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 5822

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E.O. 11652: N/A
TAGS: TPHY, TBIO, OSCI, JA
SUBJECT: KOBATA CONTRACT - PROPOSED NIH CONTRACT NO. NO1-CB-64205

REF: STATE 35570

1. LATEST GOJ (MOE) POSITION ON KOBATA CONTRACT, AS STATED
IN POSITION PAPER PROVIDED EMBASSY FEB. 22, FOLLOWS:

POINT (A):

UNDER GENERAL PROVISION 7 AND SPECIAL PROVISIONS ARTICLES
II AND IV-B, PAYMENT OF CONTRACT MONEY IS TO BE MADE EX POST
FACTO. THIS REQUIREMENT RUNS COUNTER TO MOE REGULATION TO
EFFECT THAT FUNDS REQUIRED FOR PERFORMANCE OF CONTRACT
RESEARCH SHALL BE PAID PROOR TO INITIATION OF SUCH RESEARCH.
PROPOSED SOLUTION:

RESEARCH FUNDS TO BE PAID PRIOR TO CONDUCT OF RESEARCH FOR
EACH JAPANESE FISCAL YEAR.

POINT (B):

UNDER SPECIAL PROVISIONS ARTICLE X, CONTRACTOR MUST AGREE
TO TRANSFER TO USG THE TITLE TO ITEMS OF EQUIPMENT HAVING
ACQUISITION COST OF DOLS 1,000 OR MORE. THIS REQUIREMENT
RUNS COUNTER TO MOE REGULATION TO EFFECT THAT EQUIPMENT
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PAGE 02 TOKYO 03573 060639Z

ACQUIRED WITH FUNDS REQUIRED FOR CONTRACT RESEARCH SHALL
NOT BE RETURNED.

PROPOSED SOLUTION:

IN PRINCIPLE, THE TITLE (TO ITEMS OF EQUIPMENT HAVING
ACQUISITION COST OF DOLS 1,000 ORE MORE) IS IN THE

CONTRACTOR. IF USG WISHES TO RETAIN THE TITLE TO SUCH EQUIPMENT, THE EQUIPMENT CAN BE LOANED TO CONTRACTOR UNTIL THE TIME THE EQUIPMENT IS ACQUIRED BY CONTRACTOR, WITH VALUE OF THE EQUIPMENT EXCLUDED FROM AMOUNT OF CONTRACT.

2. ACCORDING TO MOE OFFICIALS WHO HAVE REVIEWED PROPOSED CONTRACT THOROUGHLY, THERE ARE A FEW OTHER POINTS WHICH THEY WISH REVISED, BUT PROPOSED MODIFICATIONS ARE ALL CHANGES IN WORDING, NOT IN SUBSTANCE.

3. EMBASSY ALSO LEARNED FROM DR. KOBATA HIMSELF THAT HE IS STILL INTERESTED IN ENTERING RESEARCH CONTRACT WITH NIH. DISAPPOINTED WITH MOE PROCRASTINATION IN SIGNING CONTRACT, HOWEVER, KOBATA IS CONSIDERING A DIFFERENT APPROACH TO OBTAINING CONTRACT: SUBMITTING PROPOSAL FOR CONTRACT RESEARCH JOINTLY WITH HIS U.S. COLLEAGUE, DR. Y.S. KIM, GASTRO-INTESTINAL UNIT, VETERANS HOSPITAL IN SAN FRANCISCO. IF CONTRACT WERE AWARDED, PROF. KOBATA HOPES TO LEAVE ALL FISCAL MATTERS RELATING TO CONTRACT TO DR. KIM, THUS MAKING IT POSSIBLE FOR KIM TO ACQUIRE EQUIPMENT NEEDED FOR RESEARCH AND MAKE IT AVAILABLE TO KOBATA.

4. ALTHOUGH PROSPECTS FOR SIGNING KOBATA CONTRACT ARE NOT DEAD, THEY ARE PROBABLY MORIBUND UNLESS NIH CAN BUILD
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PAGE 03 TOKYO 03573 060639Z

ON THIS LATEST INFORMATION WE HAVE OBTAINED FROM MOE. THIS IS FIRST TIME THAT MOE HAS INDICATED THAT RESOLUTION OF ABOVE-MENTIONED POINTS COULD LEAD TO ACCEPTANCE OF CONTRACT. WE ARE NOT COMPLETELY SANGUINE ABOUT CONCLUSION OF CONTRACT, BUT WE ARE WILLING TO MAKE STRONG EFFORT IF NIH CAN GIVE US FURTHER NEGOTIATING INSTRUCTIONS.
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